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Senate Holds Hearing on Trust Reorganization: NCAI Calls for Tribes to Voice Concerns to Congress-

President Tex Hall called for tribal leadership to continue to articulate region specific responses on trust reorganization to the House and Senate Appropriations Committees, to the Senate Committee on Indian Affairs, and to the House Resources Committee, as the Senate Committee on Indian Affairs held a Wednesday March 10 oversight hearing on the DOI trust reorganization. Senate Minority Leader Tom Daschle spoke to the Committee in addition to two panels of speakers. The first panel included Assistant Secretary of the Interior Mr. Dave Anderson and Special Trustee for American Indians Mr. Ross Swimmer. The second panel consisted of tribal leadership – NCAI President Tex Hall; Navajo Nation President Joe Shirley Jr.; Tlingit and Haida Central Council President Edward Thomas; Cheyenne River Sioux Chairman Harold Frazier; and Hoopa Tribal Chairman Clifford Lyle Marshall.

Senator Daschle's Statements -

Senator Daschle's statement emphasized three points to engage Congress as a more active partner to resolve the trust dispute with the tribal input. Senator Daschle stated that: 1) Congress should not meddle in the *Cobell* litigation; 2) Congress should initiate bipartisan discussion to reach a consensus resolution to the trust dispute among three entities – tribal leaders, Congress and the Administration; 3) Congress should budget for a resolution with legislation similar to S. 1540 - the Indian Payment Trust Equity Act that the Senator introduced last year. Committee Chairman Campbell commented that he had introduced S. 1770, a legislation that followed-up on a Senate Committee on Indian Affairs letter in which the Committee called for either a mediated resolution among the *Cobell* litigation or litigation that would accomplish the same.

Statements From the Department of the Interior -

Special Trustee Ross Swimmer testified that an equitable resolution would account for Indian Country's diversity and implement universal standards of quality. Mr. Swimmer stated that Indian Preference hiring would apply to all BIA positions, but not to OST hires. He stated that the proposed reorganization is not a top-heavy plan because most new positions are at the agency level; although he stated that the proposed plan would move the ultimate authority for local functions to centralized offices to ensure standardization. Mr. Swimmer stated that the OST supports 638 contracting, and full accountability for contracting and compacting tribes. Finally, he stated that current plan does not take funds away from other tribal needs and that, aside from the \$5 Million that Congress appropriated last year, any new funding this year went toward OST.

Assistant Secretary Anderson stated that the *Cobell* litigation arose because the existing system did not identify who would carry out DOI responsibilities. He emphasized that in order for DOI to standardize accountability, the Department must be "in the business of change." He felt that the BIA had listened to tribes in developing a plan to resolve the resolution

Tribal Leaders' Statement's -

President Tex Hall disagreed with the OST when he said that the DOI plan was indeed top-heavy. He referenced his own tribe's needs assessment study findings which show a dire need for

local trust management positions. President Hall said the only meeting between Great Plains and Rocky Mountain Region tribes and the OST took place in January, 2004 and did not constitute consultation. He stated that tribes are concerned that funding for programs such as the Indian Child Welfare Act, education, and water settlement constitutes an unmet \$52 Million need.

President Joe Shirley Jr. outlined five objectives that any reorganization plan must have: 1) A commitment to appropriate new dollars; 2) full, complete, and good faith consultation; 3) establishment of clear trust standards; 4) identify major agencies and functions; and 5) avoid a “one size fits all” approach.

President Thomas outlined his tribe’s involvement with the Inter-Tribal Monitoring Association (ITMA) and how persistent concerns with the BIA’s reorganization have existed since the 1994 Trust Reform Act. He stated that it is critical for both tribal and BIA trust management systems to be developed with clear trust standards. He expressed concerns with the OST Board which includes five tribal leaders and three investment bankers. President Thomas expressed concerns with inadequate consultation; objected to having two Regional Director’s Offices for Alaska; and, discouraged any legislation unless it helped mandate compliance with 1994 Act.

Chairman Frazier emphasized the need to avoid a “one size fits all” approach. He focused on region specific needs and stated that appraisers are needed at each agency as well as local staff. At NCAI’s Summit on trust reform, President Frazier put forth proposed legislative language to develop a regional resolution to trust management issues. Senator Campbell commented during today’s testimony that there is growing concern that the 1994 Act that outlines the OST role was intended to be temporary and not permanent.

Chairman Marshall’s testimony focused on the Hoopa Valley Tribe’s success as a pilot project under Section 139 of the Department of the Interior and Related Agencies Appropriations Act of 2004. The DOI assessment of the Hoopa Tribe’s project found that the Tribe was capable of meeting trust management responsibilities. Chairman Marshall expressed concern that Section 139 pilot projects are assessed by arbitrary standards not outlined in the 2004 Act and that these standards are higher than the DOI’s own standards for trust management. The Chairman stated that his tribe’s pilot project was successful because it was based on a self-governance model and developed with a localized approach to trust management.

NCAI’s “Trust Reform News” Link Helps Tribes Solicit Congressional Support–

With the time remaining in the brief Congressional session, it is imperative for tribal leadership to meet with their Congressional members to voice concerns with the proposed reorganization. As electronic copies of testimonies and related material become available, the NCAI webpage will post them at www.ncai.org under the Latest News section’s heading “Trust Reform News”. The web link will also have copies of S. 1459 and S. 1770 that Senators Daschle and Campbell alluded to as well as documents from the NCAI Trust Summit.

If you have any questions, please contact John Dossett or Sequoyah Simermyer at NCAI at 202.466.7767 or by e-mail at ncai@ncai.org.